

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:12-cv-000232-MR

TIMOTHY McCARTHY,)
Plaintiff,)
vs.) O R D E R
BANK OF AMERICA, N.A., and)
RONALD BERG,)
Defendants.)

)

THIS MATTER is before the Court on Defendant Ronald Berg's Motion to Dismiss Pursuant to Rule 12(b)(6) or in the Alternative that Plaintiff Substitute the Real Party in Interest Pursuant to Rule 17 [Doc. 19].

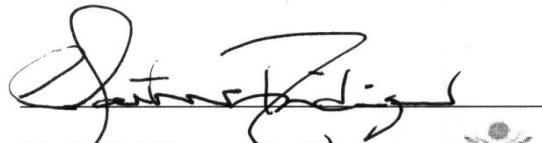
The facts, legal issues, and causes of action asserted by the parties in the present matter are substantially similar to those in the case of Burke, et al. v. Bank of America, N.A., et al., Civil Case No. 1:12-cv-0029-MR (W.D.N.C.), and the same attorneys appear on behalf of the parties in each of these actions. Even though these cases have not been consolidated, and were in fact severed [see Carter, et al. v. Bank of America, N.A., et al., Civil Case No. 1:11-cv-00326, Doc. 32], the Order of this Court previously

entered in Burke addresses and disposes of all of the issues raised by the motion currently before the Court in this matter. The Order in Burke, therefore, is incorporated herein, and the current motion will be disposed of in accord therewith.

IT IS, THEREFORE ORDERED that Defendant Berg's Motion to Dismiss Pursuant to Rule 12(b)(6) or in the Alternative that Plaintiff Substitute the Real Party in Interest Pursuant to Rule 17 [Doc. 19] is **DENIED**.

IT IS SO ORDERED.

Signed: September 30, 2013



Martin Reidinger
United States District Judge

